

[23rd November 1963]

VI—ANNOUNCEMENTS—cont.

(4) THE MADRAS SUGARCANE CESS (VALIDATION) BILL, 1963.

MR. DEPUTY SPEAKER : I have to announce to the House that the President has given his sanction and the Governor has given his recommendation to the introduction of the Madras Sugarcane Cess (Validation) Bill, 1963, in the Madras Legislative Assembly.

IX—GOVERNMENT BILLS—cont.

(5) THE MADRAS SUGARCANE CESS (VALIDATION) BILL, 1963.

* THE HON. SRI P. KAKKAN : Mr. Deputy Speaker, Sir, I beg to introduce the Madras Sugarcane Cess (Validation) Bill, 1963, and move—

“ That the Bill be taken into consideration.”

Sub-section (1) of section 14 of the Madras Sugar Factories Control Act, 1949 (Madras Act XX of 1949), as it originally stood, empowered the State Government to levy, by notification, a cess on sugarcane, brought *into any area* specified in such notification for consumption, use or sale therein. The said section was enacted with reference to Entry 52 of the State List in the Seventh Schedule to the Constitution and the corresponding entry in the Government of India Act, which empowered the State Legislature to levy a tax on the entry of goods into a “ local area ”.

In *Diamond Sugar Mills v. State of U.P.* (A.I.R. 1961, S.C. 652) the majority of the Supreme Court decided that the proper meaning to be attached to the words “ local area ” in the said Entry 52 is an area administered by a local body like a municipality, a district board, a local board, a union board or a panchayat or the like, and that the premises of a factory was not therefore a local area. They accordingly held, that section 3 of the U.P. Sugarcane Cess Act, 1956, empowering the Government to impose a cess on the entry of sugarcane into the premises of a factory did not fall within the said Entry 52 and that as there was no other entry either in the State List or in the concurrent list permitting such Act, the Act was beyond the legislative competence of the U.P. State Legislature.

In the light of this decision, the Government examined the provisions of section 14 of the Madras Sugar Factories Control Act, 1949, and decided that the word “ area ” occurring in sub-section (1) of section 14 should be substituted by the words “ local area ” so as to bring that section into conformity with the decision of the Supreme Court. Accordingly, the Madras Sugar Factories Control (Amendment) Act, 1962 (Madras Act 1 of 1962), was enacted substituting the words “ local area ” for the word “ area ” in sub-section (1) of section 14 referred to above, replacing an Ordinance. The said Amending Act came into force on 1st March 1962, as Parliament had validated the levy and collection of cess

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prior to that date by the Sugarcane (Validation) Act, 1961 (Central Act 38 of 1961) under the residuary powers available to it in Entry 97 of List I. The result of the Madras Amending Act was that the Government could levy a cess, by notification, after 1st March 1962 on sugarcane brought into any local area specified in the notification. A notification under the said section was issued only on 28th July 1962 as the Government had to consult the Advisory Committee (constituted under section 3 of the Act) as required by sub-section (1) of section 14 of the Act. But in a few cases, the cess had been levied and collected on sugarcane brought into any local area during the period between 1st March and 27th July 1962. As there was, in fact, no notification during the period such levy and collection of cess were not legally permissible. It is, therefore, necessary to validate this levy and collection by an Act of the Legislature. The Bill is intended to achieve this object. The Bill also provides that if actual levy has not been made on or after 1st March 1962 and on or before 27th July 1962, the officer can proceed to levy and collect the cess in the manner provided under the Principal Act. The amount of cess still due to the Government for the said period is about Rs. 12 lakhs. I commend this Bill for the consideration of this House.

MR. DEPUTY SPEAKER: Motion moved—

“ That the Madras Sugarcane Cess (Validation) Bill, 1963, be taken into consideration.”

* SRI S. MADHAVAN: Mr. Deputy Speaker, Sir, this Bill was brought with a view to levy cess retrospectively. I oppose this view. Of course, I agree that according to our Constitution, this House has got every right to levy taxes retrospectively. But this should not be taken as a privilege to levy every tax retrospectively. As pointed out by the Hon. Minister, it is true that a case was reported in A.I.R. 1961, Supreme Court, at page 652. In that case, the Supreme Court has decided about the words “ local area ”. It was stated in that judgment that the premises of a factory was not a local area and did not fall within the Entry 52. So it may be correct to amend the word “ area ” as “ local area ” but according to section 14 of the Act XX of 1949, the Government have got powers to levy this tax only after publishing a notification. So, the Government have taken powers to levy the tax only under section 14 and they are entitled to levy the tax only after the publication of the notification. Even if the amending Act is to come into force from March 1962, that does not mean that the Government are entitled to levy the tax from that date. According to section 14 of the Act, they are entitled to levy it only after the publication of the notification. The Government have failed to publish the notification on the date when the amending Act came into force. Therefore, the Government have now come forward to bring forward a Bill giving effect to the levy of the tax retrospectively. But I feel, certainly, that this will amount to misuse of the powers of this House by the Government to levy the tax retrospectively without any reason at all. So, I oppose this Bill.

12-30]
a.m.

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* கனம் திரு. பூ. கக்கன் : கனம் உதவி சபாநாயகர் அவர்களே, இந்த அரசாங்கமானது எப்பொழுதும் இந்த சபையின் அதிகாரத்தை மிஸ்யூஸ் பண்ணினது கிடையாது என்பதை இந்த மன்றத்திலே சொல்லிக்கொள்ள விரும்புகிறேன். இந்த ஏரியாவைப் பரிசீலித்து நிர்ணயிக்க ஒரு அட்வைசரி கமிட்டி அமைத்தார்கள். அதன் பிறகு அவர்கள் விசாரித்து ரிபோர்ட் கொடுத்த பிறகு முடிவு செய்ய வேண்டியிருக்கிறது. அவர்கள் ரிபோர்ட் உடனடியாக வராததால் தாமதம் ஏற்பட்டது. அது மிஸ்யூஸ் பண்ணுவது என்று அர்த்தமல்ல.

MR. DEPUTY SPEAKER : The question is—

“ That the Madras Sugarcane Cess (Validation) Bill, 1963, be taken into consideration.”

The motion was put and carried and the Bill was taken into consideration.

Clauses 2 and 3 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI P. KAKKAN : Sir, I move—

“ That the Madras Sugarcane Cess (Validation) Bill, 1963, be passed.”

MR. DEPUTY SPEAKER : The question is—

“ That the Madras Sugarcane Cess (Validation) Bill, 1963, be passed.”

The motion was put and carried and the Bill was passed.

(6) THE MADRAS CATTLE DISEASE (AMENDMENT) BILL, 1963.

* THE HON. SRI P. KAKKAN : Mr. Deputy Speaker, Sir, I beg to introduce the Madras Cattle Disease (Amendment) Bill, 1963, and move—

“ That the Bill be taken into consideration.”

Sir, the Madras Cattle Disease Act was enacted in the year 1866 with a view to enabling the Government to take measures for preventing the spreading of contagious or infectious diseases among animals in the State of Madras and with that object, to prescribe by law in what manner animals so infected shall be dealt with.

At present, in the definition of the word “ Animal ” in the Madras Cattle Disease Act, 1866 (Madras Act II of 1866) as in force in the State of Madras except the Added Territories, that is, the territories that have been transferred from the State of Andhra Pradesh and added on, to this State under the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959) dog has not been included, although dog has been included